

**COMMITTEE ON SUBORDINATE LEGISLATION**

**(2019-2020)**

**(SEVENTEENTH LOK SABHA)**

**FOURTH REPORT**

**THE INSURANCE OMBUDSMAN RULES, 2017**



**LOK SABHA SECRETARIAT**

**NEW DELHI**

**September, 2020/ Asvina, 1942 (Saka)**

**COMMITTEE ON SUBORDINATE LEGISLATION**  
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**(PRESENTED TO LOK SABHA ON 22.09.2020)**



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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (17<sup>th</sup> LOK SABHA)  
(2019-2020)**

Shri Raghurama Krishnaraju Kanumuru

Chairperson

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4. Shri Jyotirmay Singh Mahato
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1. Shri R.C. Tiwari - Joint Secretary
2. Shri T.S. Rangarajan - Director
3. Shri Nabin Kumar Jha - Additional Director
4. Shri Brajesh Kumar Singh - Under Secretary

## **INTRODUCTION**

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, do present this Fourth Report on Insurance Ombudsman Rules, 2017.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 10 December, 2019 during which oral evidence of the representatives of Ministry of Finance (Department of Financial Services) was taken.

3. The Committee considered and adopted this Report at their sitting held on 21.09.2020.

4. For facility of reference and convenience, observations/recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in Appendix-I of the Report.

5. Extracts from Minutes of the Fifth sitting of the Committee (2019-20) held on 10.12.2019 and Extracts from Minutes of the Fifteenth Sitting of the Committee (2019-20) held on 21.09.2020 relevant to this Report are included in Appendix-III of the Report.

**New Delhi;**  
**21 September, 2020**  
**01 Asvina , 1942 (Saka)**

**Raghurama Krishnaraju Kanumuru**  
**Chairperson,**  
**Committee on Subordinate Legislation**

# REPORT

## Part I

### Introduction

#### **Meaning and concept of Insurance**

Insurance is a financial product, the underlining principles of which involves pooling funds from many insured entities to pay for the losses that some may incur. Insurance is, therefore, largely a social security measure wherein the burden is shared by policy holders commonly.

#### **Indian Insurance Market**

At the end of March 2018, there were 68 insurers operating in India; of which 24 are life insurers, 27 are general insurers, 6 are Standalone health insurers exclusively doing health insurance business and 11 are re-insurers including foreign reinsurers branches and Lloyd's India.

Of the 68 insurers presently in operation, eight are in the public sector and the remaining sixty are in the private sector. Two specialized insurers, namely ECGC and AIC, one life insurer namely LIC of India (LIC), four in general insurance and one in reinsurance namely GIC Re. are in public sector. 23 life insurers, 21 general insurers, 6 standalone health insurers and 10 reinsurers including foreign reinsurers' branches and Lloyd's India are in private sector.

#### **Insurance penetration and Density in India**

The measure of insurance penetration and density reflects the level of development of insurance sector in a country. While insurance penetration is measured as the percentage of

insurance premium to GDP, insurance density is calculated as the ratio of premium to population (per capita premium). The insurance penetration and density in India are pathetically low in comparison to developed countries.

### **Importance of Insurance Sector**

The Insurance Sector has a significant role in the social and economic life of the country. As traditional structure of society characterized by Joint family, strong kinship relations and strong local solidarity is breaking up and giving way to modern society characterized by Independence, autonomy, mobility, the role of Insurance has become important in providing social security to individuals and families in adversities. The Insurance Sector also plays a very important role in the economic development of the country as it provides long-term funds for infrastructure development and enhances the risk taking ability of the country as a whole by supporting critical projects, such as space, and cutting age technologies and providing cushion to businesses. It also contributes to generate large scale employment opportunities.

The low level of insurance penetration and density in India are serious bottlenecks in the success of policies of the Government to provide insurance cover to all the citizens of the country particularly poor people. There could be many reasons for this state of affairs. Some of them may be enumerated as under:-

- (i) Low level of economic development
- (ii) Low per capita income

- (iii) Poverty
- (iv) Lower level of literacy and traditional structure of Indian society
- (v) Lack of awareness and financial planning
- (vi) Lack of confidence in Insurance Companies

The most of the problems responsible for low insurance density and penetration are structural in nature and it will take some time to be fully addressed. The experience shows that structural problems deeply rooted in society are removed slowly and in a course of time. However, the confidence of the people in insurance companies may be enhanced through establishment of an Independent, accountable, transparent and responsive complaint redressal mechanism which will contribute to the development of insurance sector.

### **Regulatory framework**

The Insurance business in India is highly regulated business. Apart from the Companies Act, 2013 and other legislations namely, the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999 provides the framework for the Rule of the insurance business in India. The Insurance Act, 1938 lays down the norms and procedures for the establishment, registration and conduct of insurance business in India, maintenance of solvency of the insurers etc. The Act confers the powers on the Central Government to frame Rules for carrying out the purposes of the Act. Both Central government and the IRDA have been conferred powers to make Rules and Rules respectively consistent with the Act.

The Insurance Regulatory and Development Authority Act, 1999 (IRDA) created Insurance Regulatory and Development Authority having duty to regulate, promote and ensure orderly growth of the insurance business and re-insurance business in the country subject to provisions of this Act and any other law for the time being in force. The duty of the IRDA mentioned in Section 14 of the IRDA Act, inter-alia, includes protection of the interests of the policy-holders in matters concerning assigning of policy, nomination by policy-holders, insurable interest, settlement of insurance claim, surrender value of policy and other terms and conditions of contracts of insurance. Both Central government and the IRDA have been conferred powers to make Rules and Rules respectively consistent with the Act.

### **Objectives of the Act**

The objectives of the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999 are manifestly to protect the interests of the policy holders. The whole focus of the Insurance Act, 1938 is to ensure that financially strong promoters having deep pockets should enter into the insurance business. It also painstakingly strives to maintain the solvency of the insurance companies so that interests of the policy holders should be safeguarded.

### **Mission statement of the IRDA**

**The mission statement of the IRDA is as under:-**

- (i) to protect the interest of and secure fair treatment to policyholders;

- (ii) to bring about speedy and orderly growth of the insurance industry (including annuity and superannuation payments), for the benefit of the common man, and to provide long term funds for accelerating growth of the economy;
- (iii) to set, promote, monitor and enforce high standards of integrity, financial soundness, fair dealing and competence of those it regulates;
- (iv) to ensure speedy settlement of genuine claims, to prevent insurance frauds and other malpractices and put in place effective grievance redressal machinery;
- (v) to promote fairness, transparency and orderly conduct in financial markets dealing with insurance and build a reliable management information system to enforce high standards of financial soundness amongst market players;
- (vi) to take action where such standards are inadequate or ineffectively enforced;
- (vii) to bring about optimum amount of self-Rule in day-to-day working of the industry consistent with the requirements of prudential Rule.

## Chapter II

### **Examination of Insurance Ombudsman Rules, 2017**

The Insurance Ombudsman Rules, 2017 were published in the Gazette of India dated 27 April, 2017 [G.S.R 413(E)]. During examination of these Rules, certain shortcomings were observed therein which were referred to the Ministry of Finance (Department of Financial Services), for seeking their comments. The points raised and the comments of the Ministry so received are as under:-

#### **(i) Delay in laying of the Insurance Ombudsman Rules, 2017**

It was noticed that the original Insurance Ombudsman Rules were notified on 27.04.2017 but were laid in Parliament only on 29 December, 2018 i.e. after a gap of more than one and a half year which was contrary to the oft repeated recommendation of the Committee on Subordinate Legislation which has prescribed that Rules should be laid in Parliament as soon as possible after their publication and if the House is not in Session then within a maximum time-limit of 15 days after start of the Session.

The Ministry of Finance in their reply to the query stated:-

"The Insurance Ombudsman Rules, 2017 were notified on 27th April, 2017 but the Parliament was not in Session. In the meantime, a proposal to amend the following Rules and issue a corrigendum to these Rules was under consideration in this Department. Thus, it was decided to lay the said Rules in the Parliament after issue of the Amendment and Corrigendum to the Rules. Based on the advice of Ministry of Law and Justice, the amendment proposed in the corrigendum was clubbed with the proposed notification of amendment to Insurance Ombudsman Rules, 2017 and the Insurance Ombudsman

(Amendment) Rules, 2018 were notified in the Gazette of India vide GSR 785 (E) on 20th August, 2018. The next session (Winter Session) of the Parliament was from 11th December, 2018. Accordingly, the Insurance Ombudsman Rules, 2017 and the Insurance Ombudsman (Amendment) Rules, 2018 were laid in both the Houses on 29 December, 2018."

During evidence before the Committee on 10 December, 2019, the Secretary, DFS, Ministry of Finance admitted that there has been a delay in laying and it will be ensured in future that Rules are laid in Parliament well in time.

**(ii) No specific power to make Rules pertaining to insurance ombudsman**

On scrutiny of Section 24 of the IRDA Act, 1999, under which the Insurance Ombudsman Rules were notified, it was observed that the said Section did not contain any specific provision to make Rules pertaining to insurance ombudsman. Accordingly, the matter was referred to the Ministry of Finance for their clarification.

The Ministry of Finance in their reply stated that:-

"During discussions on draft Bima Lokpal Rules, 2015, Secretary (Legislative Affairs) opined that the proposed draft Bima Lokpal Rules, 2015 need to be notified not under Section 114 of Insurance Act, 1938 but under Section 24 of IRDA Act, 1999 as explained below:

Post-enactment of the IRDA Act, 1999, the protection of policyholders is one of the duties of the regulator explicitly mentioned in the Act. However, the current RPG Rules of 1998 were notified in 1998 i.e. prior to the promulgation of IRDA Act, 1999. Hence the view of the Legislative Department is that any Rules to replace the Redressal of Public Grievances (RPG) Rules of 1998 have to be under the provisions of IRDA Act, 1999, keeping in view the functions and duties of the regulator.

Further, any Rules for the safeguard of the interests of the policyholders need to be in consonance with the provisions relating to the duties of regulator elaborated in the IRDA Act, 1999 and as such it was felt appropriate to frame/notify the proposed Bima Lokpal Rules 2015 under Section 24 of the IRDA Act, 1999 as there is an enabling provision for Central Government to make Rules for carrying out the provisions of the IRDA Act, 1999.

It was also suggested that Bima Lokpal Rules, 2015 may be renamed as Insurance Ombudsman Rules, 2015.

Therefore, it was on the basis of the advice of Legislative Department, the Insurance Ombudsman Rules were framed under Section 24 of the IRDA Act, 1999."

**(iii) Conflict of interest in the duties of the ombudsman**

During examination of various provisions of the Insurance Ombudsman Rules, 2017, and more particularly Rule 5(1) regarding functions and powers of the 'Executive Council of Insurers (ECOI)' which has a substantial role in appointment of Ombudsman and the formulation of the policies of the office of Ombudsman, it was observed that as per the prescribed composition of the Executive Council, 7 out of the 9 of its members including the Chairman represent the insurance industry. It was, therefore, felt that as per the existing provisions there is a conflict of interest in the duties of the Ombudsman as protector of the interests of policy holders and the interest of the Insurers he appears to represent. The same has been occasioned by the procedure for appointment of ombudsman, role of Executive Councils of Insurers in the framing of policies of the office of ombudsman and meeting of its expenditure etc. giving an impression of potential bias against insured person. The Ministry in response to this observation stated as under:-

"There appears to be no conflict of interest in the duties of Insurance Ombudsmen. The Selection criteria for the appointment is approved by the Government of India. The Selection Committee constituted for this purpose is an independent committee, chaired by Chairman (IRDAI) as per Rule 7(3) (a) of Insurance Ombudsman Rules, 2017. Rule 6(1) of these Rules envisages that the Executive Council of Insurers (ECOI) shall issue guidelines relating to procedure for the day-to-day administration, secretariat staffing, secretariat administration, infrastructure and other related aspects of the office of Insurance Ombudsmen. ECOI has no interference in the functioning of Insurance Ombudsmen... there does not appear to be any potential bias against the insured persons. "

**(iv) Duties and functions of the Insurance Ombudsman**

As per sub-Rule (1) of Rule 13 of the Insurance ombudsman Rules, 2017 regarding the duties and functions of Insurance Ombudsman, the nature of complaints and disputes specified under clauses (a) to (i) to be dealt with by the Insurance Ombudsman appeared to be in a exhaustive form. Normally such provisions are prescribed in the nature of inclusive form so as to include even those situations not contemplated for in the Rules or other unforeseen situations or cases arising out of the insurance disputes and complaints.

The Ministry of Finance in their response submitted that the observations of the Committee will be examined.

**(v) Removal from Office**

Rule 9 of the Insurance Ombudsman Rules, 2017 regarding 'Removal from Office of Insurance Ombudsman' provides that an Ombudsman can be removed from Office on the

ground of gross misconduct during his term of office. It was, therefore observed that the only ground on which an insurance Ombudsman can be removed from the office is 'gross misconduct' ignoring the other generally specified grounds such as physical incapacity, unsoundness of mind, insolvency, conviction in a criminal case, engagement in any other paid employment etc. which are often grounds for removal of holder of a public office.

On being pointed out, the Ministry in their reply stated that the observations of the Committee will be examined.

**(vi) Selection Criteria for Insurance Ombudsman**

As per sub-Rule 2 of Rule 7 of the Insurance Ombudsman Rules, 2017, an Ombudsman shall be selected from amongst the persons having experience of the insurance industry, civil service, administrative service or judicial service. It was, however seen that the provision is silent in respect of the qualification as well as the nature and extent of experience required to be possessed by a person for selection as ombudsman.

in their response to the above observation, the Ministry of finance submitted as under:-

"Rule 7(4) of the Insurance Ombudsman Rules, 2017 prescribes that the Executive Council of Insurers shall prepare a panel through an open process by inviting applications from amongst the eligible candidates and the selection process shall be in accordance with the selection criteria finalised by the Executive Council of Insurers, with the approval of the Government of India (Ministry of Finance). The Selection Criteria stipulates the minimum qualifications, experience etc. for a person to be eligible for appointment as Ombudsman.

As per the Selection Criteria finalised by the ECOI, with the approval of the Government, the minimum eligibility for appointment as Ombudsman shall be as follows:

A person should have at least 25 years' experience in Insurance industry at senior level with last position held at most one level below Board. OR Persons who have retired or are soon to retire from Civil or Administrative services of Government of India should have held a post of Joint Secretary or equivalent in the Government of India or any equivalent post in Civil or Administrative services of Government of India OR Persons who have retired or are soon to retire as District & Sessions Court Judge or Judge of MACT equivalent to District & Sessions Court Judge or equivalent Courts or High Court Judge.

However, the observations of the Committee will be examined."

**(vii) Maximum age fixed for holding the office of ombudsman**

As per the provision contained in Rule 8 of the Insurance Ombudsman Rules, 2017, no person shall hold office as an Ombudsman after he attained the age of 70 years. An impression was , therefore, created that there is no nexus between the qualification of the ombudsman and maximum age of 70 years fixed for holding the office of ombudsman. Normally such kind of higher age is fixed in case of Offices/posts which require extensive knowledge and experience such as members of National Human Rights Commission etc.

In reply to this observation of the Committee, the Ministry stated:-

"The post of Insurance Ombudsman requires extensive knowledge and experience. Most of the Insurance Ombudsman are retired professionals having experience of the insurance industry, civil / administrative or judicial services. Therefore, the maximum age for holding the office of ombudsman was fixed at 70 years. However, observations of the Committee will be examined."

**(viii) Grant of Award by the ombudsman**

Sub-Rule 3 of Rule 17 of the Insurance Ombudsman Rules, 2017 provided that where the award is in favour of the complainant, it shall state the amount of compensation granted to the complainant after deducting the amount already paid, if any. from the award. It was, therefore, seen that the award so granted to the does not contain any provisions for compensation on grounds of harassment, mental agony, loss of time and costs which are usually grounds for enhanced compensation in judicial and quasi-judicial proceedings.

The Ministry in response to this observation stated that the observations of the Committee will be examined.

It was also observed that the Rules did not contain any provisions for appeal against the award granted by the Ombudsman. In this regard, the Ministry stated as under:-

"Insurance Ombudsman Rule 17(8) provides that the award of Insurance Ombudsman shall be binding on the insurers. However, there is no bar on the complainant approaching a judicial forum after Insurance Ombudsman issues an award."

**(ix) Insurance Ombudsman Scheme vis-a-vis Banking Ombudsman Scheme**

It was observed that the scheme of ombudsman as introduced by the Insurance Ombudsman Rules, 2017 is substantially different from the Banking Ombudsman Scheme, 2006 made by the RBI. It was felt that uniformity of schemes of ombudsman in different segments of financial market will help the consumers in having a better understanding of complaints redressal mechanism. in this regard, the Ministry of Finance stated that the observations of the Committee will be examined.

After taking into consideration the above replies of the Ministry of Finance on the various issues raised by the Committee on Insurance Ombudsman Rules, 2017, and for further elucidation of facts, the Committee took oral evidence of the Ministry of Finance (Department of Financial Services on 10 December, 2019).

During the course of evidence, the representatives of the Ministry while apologizing for the delay in laying of the Rules in Parliament assured the Committee that they will take steps to prevent the recurrence of such lapses in future. They further admitted that all the concerns and suggestions made by the Committee with regard to the above Rules are valid ones and assured the Committee to consider all the points mentioned above and to restructure the institution of Insurance Ombudsman.

## Part II

### Observations/ recommendations

#### Introductory

1. The Committee note that India has a very large Insurance Sector with several crore policy holders and the focus of the Government is to provide social security to all or maximum number of people. The Insurance business in India has been growing at the rate of about 10-20% yearly. However, the available dispute redressal mechanism is not sufficient to handle the large number of complaints pertaining to deficiency in service. Presently, there are only 17 Ombudsmen for such a large country and large number of policy holders. The record of disposal of complaints by Insurance Ombudsman is also not very encouraging. In this context, the Committee note that as per Annual Report (2017-18) of Insurance regulatory and Development Authority of India, 74% of complaints made to Insurance Ombudsman were declared non-acceptable/not-entertainable by the Ombudsman. It is also well known that civil courts of the country are burdened with large number of cases. They have a large number of pending cases. Their infrastructure and staff strength are not sufficient to handle timely disposal of complaints against insurance companies. In this backdrop the Committee examined the Insurance Ombudsman Rules, 2017. The observations and recommendations of the Committees on the issues arising out of the examination of the Insurance Ombudsman Rules are detailed below in the succeeding paragraphs.

### Executive Council for Insurers (ECOI)

2. The Committee note that Rule 5 of the Insurance Ombudsman Rules prescribes for an Executive Council of Insurers consisting of nine members including the Chairperson. According to sub-Rule (2), the members of ECOI shall comprise of -- 2 representing life insurers, 2 representing general insurers, 1 representing stand alone health insurers, 1 from IRDAI, 1 from Central Government, 1 from Chairman LIC or the Chairman, General Insurers' (Public Sector) association of India. It may, therefore, be seen that the total number of members when counted as per the composition given comes to 8 only contrary to the total number of 9 members prescribed under Sub-Rule (1) of Rule 5.

### Need for impartial institution of the Insurance Ombudsman

3. The Committee note that as per the existing provisions contained in Rules 5, 6, 7, 9 and 12 (2) of the Insurance ombudsman Rules, 2017, there appears to be a conflict of interests in the duties of the Ombudsman as protector of the interests of policy holders and the interest of the Insurers he appears to represent. In this regard, the Committee note that Rule 5 provides for the 'Executive Council of Insurers (ECOI)' which under Rules 6, 7, 9 and 12(2) has substantial role in appointment and removal of Ombudsman, formulation of the policies of the office of Ombudsman and meeting its expenditure. As per the prescribed composition of the ECOI, 7 out of the 9 of its members including the Chairman represent the insurance industry. The criteria for selection of Insurance Ombudsman and panel of eligible candidates are also prepared by ECOI. The

Committee, therefore, gather an impression that all these provisions read together depict Insurance Ombudsman as an agent of insurers leading to conflict of interest in the discharge of his/her duties to act impartially, fairly and independently in protecting the interests of the policy holders. As a result, the Committee feel that the Insurance Ombudsman Rules 2017, in their present shape, disregard the principles of natural justice particularly rule against bias. Accordingly, the Committee feel that there is an urgent need for independent and impartial Insurance Ombudsman in the country and the strengthening of these institutions.

#### Selection Criteria for Insurance Ombudsman

4. As per sub-Rule 2 of Rule 7 of the Insurance Ombudsman Rules, 2017, an Ombudsman shall be selected from amongst the persons having experience of the insurance industry, civil service, administrative service or judicial service. The Committee, however, find that the provision is silent in respect of the qualification as well as the nature and extent of experience required to be possessed by a person for selection as ombudsman. In this regard, the Ministry have clarified that according to the selection criteria finalized by the Executive Council of Insurers, a person should have at least 25 years' experience in Insurance industry at senior level with last position held at most one level below Board or persons who have retired or are soon to retire from Civil or Administrative services of Government of India should have held a post of Joint Secretary or equivalent in the Government of India or any equivalent post in Civil or Administrative services of Government of India or persons who have retired or are soon

to retire as District & Sessions Court Judge or Judge of MACT equivalent to District & Sessions Court Judge or equivalent Courts or High Court Judge. The Committee are of the considered opinion that the selection criteria which have been so finalized by the ECOI in consultation with the Government should be made a part and parcel of the Insurance Ombudsman Rules, 2017 to make them transparent and self-contained.

#### Maximum age fixed for holding the office of ombudsman

5. The Committee note that Rule 8 of the Insurance Ombudsman Rules, 2017 prescribes a very high maximum age of up to 70 years for holding the office of Insurance Ombudsman. On being pointed out by the Committee that normally such kind of higher age is fixed in case of Offices/posts which require extensive knowledge and experience etc., the Ministry have taken the plea that the post of Insurance Ombudsman requires extensive knowledge and experience and most of the Insurance Ombudsman are retired professionals having experience in the insurance sector.

#### Removal from Office

6. The Committee note that Rule 9 of the Insurance Ombudsman Rules, 2017 provides that an Ombudsman can be removed from Office on the ground of gross misconduct ignoring the other generally specified grounds such as physical incapacity, unsoundness of mind, insolvency, conviction in a criminal case, engagement in any other paid employment etc. which are often grounds for removal of holder of a public office. On being pointed out, the Ministry have agreed to look into this issue.

## Duties and Functions of Insurance Ombudsman

7. The Committee note that nature of complaints and disputes specified under sub-Rule (1) of Rule 13 which are to be dealt with by the Insurance Ombudsman appear to be in an exhaustive form and gives an impression that in the Rules, the nature of disputes or complaints have been made limited to the specified extent. The Committee observe that normally such provisions in various statutes are prescribed in the nature of inclusive form so as to include even those situations not contemplated for in the Rules or other unforeseen situations or cases arising out of the insurance disputes and complaints or any kind of deficiency in service by the Insurers. On being pointed out, the Ministry have agreed to suitably examine the issue.

## Grant of Award

8. The Committee note that an award granted by the Insurance Ombudsman under Rule 17 in favor of complainant shall state the amount of compensation to be granted to the complainant after deducting the amount, if any, already paid. In this regard, the Committee are of the considered opinion that the award should also provide for compensation on accounts of harassment, mental agony, loss of time and costs which are usually grounds for enhanced compensation in judicial and quasi-judicial proceedings. The Ministry have agreed to examine this observation of the Committee.

## Insurance Ombudsman Scheme vis-a-vis Banking Ombudsman Scheme

9. The Committee observe that the scheme of insurance ombudsman as introduced by the Insurance Ombudsman Rules, 2017 is substantially different from the Banking Ombudsman Scheme, 2016 made by the RBI. In this regard, the Committee feel that uniformity in various schemes of ombudsman in different segments of financial market will help the consumers in having a better understanding of complaints redressal mechanism. In this regard the Committee note that the Ministry of Finance have agreed to examine this aspect.

### Delay in laying of Rules

10. The Committee note that the original Insurance ombudsman Rules were notified on 27.04.2017 but were laid in Parliament only on 29 December, 2018 i.e. after a gap of more than one and a half years which was contrary to the oft repeated recommendation of the Committee on Subordinate Legislation which has prescribed that Rules should be laid in Parliament as soon as possible after their publication and if the House is not in Session then within a maximum time-limit of 15 days after start of the Session. The Committee are not satisfied with the justification furnished by the Ministry of Finance that the amendment proposed in the Rules was clubbed with the proposed notification of amendment to Insurance Ombudsman Rules, 2017 and the Insurance Ombudsman (Amendment) Rules, 2018 were notified in the Gazette of India vide GSR 785 (E) on 20th August, 2018. The Committee feel that in accordance with the statutory provisions, it was the bounden duty of the Ministry to lay the Regulations in Parliament immediately

after their notification in April, 2017 instead of waiting for the Notification of the proposed amendment in the Rules resulting in their delayed laying in December, 2018. In this regard, the Committee note with satisfaction that the representatives of the Ministry during evidence before the Committee have assured that in future it will be ensured that Rules are laid in Parliament well in time.

### Conclusion

11. The Committee note that as per the annual report (2017-18) of the Insurance Regulatory and Development Authority of India, 74% of the complaints made to Insurance Ombudsman were declared non-acceptable, non-maintainable. Also, taking into consideration the various aspects brought out above, the Committee feel that the Insurance Ombudsman Rules, 2017 in their present shape, are not sufficient to carry out the objectives of their parent Act i.e. Insurance Regulatory and Development Authority Act, 1999 to protect the interests of holders of insurance policies so prominently expressed in the long title of the Act. The Committee also observe that the representatives of the Ministry of Finance, Department of Financial Services have acknowledged the deficiencies/ short comings pointed out by the Committee in the Insurance Ombudsman Rules, 2017 and expressed their willingness to remove the same by undertaking a review and bringing about suitable amendments to the Rules. In this regard, the Committee note that the Department of Financial Services have proposed to constitute a Committee to review the Insurance Ombudsman Rules, 2017 as a whole to make the Insurance Ombudsman system more robust, transparent and efficient. The

said Committee will take an independent view on these Rules and present its report within a period of next 3 to 4 months since its formation. Based on the recommendations of the said Committee a view will be taken in the matter. The Committee, therefore, recommend the Ministry to complete the process of review and amendment of the Insurance Ombudsman Rules, 2017 within a period of three months from the date of the presentation of this Report to the Lok Sabha.

New Delhi;  
21 September, 2020  
01 Asvina , 1942 (Saka)

Raghurama Krishnaraju Kanumuru  
Chairperson,  
Committee on Subordinate Legislation

## APPENDIX I

(Vide Para 5 of the Introduction of the Report)

### SUMMARY OF RECOMMENDATIONS MADE IN THE FOURTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTEENTH LOK SABHA)

Sl.No.	Reference to Para No. in the Report	Summary of Recommendations
1	2	<p>The Insurance Ombudsman Rules, 2017 [G.S.R 413(E)]</p> <p>The Committee note that Rule 5 of the Insurance Ombudsman Rules prescribes for an Executive Council of Insurers consisting of nine members including the Chairperson. According to sub-Rule (2), the members of ECOI shall comprise of -- 2 representing life insurers, 2 representing general insurers, 1 representing stand alone health insurers, 1 from IRDAI, 1 from Central Government, 1 from Chairman LIC or the Chairman, General Insurers' (Public Sector) association of India. It may, therefore, be seen that the total number of members when counted as per the composition given comes to 8 only contrary to the total number of 9 members prescribed under Sub-Rule (1) of Rule 5.</p>
	3	<p>The Committee note that as per the existing provisions contained in Rules 5, 6, 7, 9 and 12 (2) of the Insurance ombudsman Rules, 2017, there appears to be a conflict of interests in the duties of the Ombudsman as protector of the interests of policy holders and the interest of the Insurers he appears to represent. In this regard, the Committee note that Rule 5 provides for the 'Executive Council of Insurers (ECOI)' which under Rules 6, 7, 9 and 12(2) has substantial role in appointment and removal of Ombudsman, formulation of the policies of the office of Ombudsman and meeting its expenditure. As per the prescribed composition of the ECOI, 7 out of the 9 of its members including the Chairman represent the insurance industry. The criteria for selection of Insurance Ombudsman and panel of eligible candidates are also prepared by ECOI. The Committee, therefore, gather an impression that all these provisions read together depict Insurance Ombudsman as an agent of insurers leading to conflict of interest in the discharge of his/her duties to act impartially, fairly and independently in protecting the interests of the policy holders. As a result, the Committee feel that the Insurance Ombudsman Rules 2017, in their present shape,</p>

		<p>disregard the principles of natural justice particularly rule against bias. Accordingly, the Committee feel that there is an urgent need for independent and impartial Insurance Ombudsman in the country and the strengthening of these institutions.</p> <p>4 As per sub-Rule 2 of Rule 7 of the Insurance Ombudsman Rules, 2017, an Ombudsman shall be selected from amongst the persons having experience of the insurance industry, civil service, administrative service or judicial service. The Committee, however, find that the provision is silent in respect of the qualification as well as the nature and extent of experience required to be possessed by a person for selection as ombudsman. In this regard, the Ministry have clarified that according to the selection criteria finalized by the Executive Council of Insurers, a person should have at least 25 years' experience in Insurance industry at senior level with last position held at most one level below Board or persons who have retired or are soon to retire from Civil or Administrative services of Government of India should have held a post of Joint Secretary or equivalent in the Government of India or any equivalent post in Civil or Administrative services of Government of India or persons who have retired or are soon to retire as District &amp; Sessions Court Judge or Judge of MACT equivalent to District &amp; Sessions Court Judge or equivalent Courts or High Court Judge. The Committee are of the considered opinion that the selection criteria which have been so finalized by the ECOI in consultation with the Government should be made a part and parcel of the Insurance Ombudsman Rules, 2017 to make them transparent and self-contained.</p> <p>5 The Committee note that Rule 8 of the Insurance Ombudsman Rules, 2017 prescribes a very high maximum age of up to 70 years for holding the office of Insurance Ombudsman. On being pointed out by the Committee that normally such kind of higher age is fixed in case of Offices/posts which require extensive knowledge and experience etc., the Ministry have taken the plea that the post of Insurance Ombudsman requires extensive knowledge and experience and most of the Insurance Ombudsman are retired professionals having experience in the insurance sector.</p> <p>6 The Committee note that Rule 9 of the Insurance Ombudsman Rules, 2017 provides that an Ombudsman can be removed from Office on the ground of gross misconduct ignoring the other generally specified grounds such as physical incapacity, unsoundness of mind, insolvency, conviction in a criminal case, engagement in any other paid</p>
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		<p>employment etc. which are often grounds for removal of holder of a public office. On being pointed out, the Ministry have agreed to look into this issue.</p> <p>7 The Committee note that nature of complaints and disputes specified under sub-Rule (1) of Rule 13 which are to be dealt with by the Insurance Ombudsman appear to be in a exhaustive form and gives an impression that in the Rules, the nature of disputes or complaints have been made limited to the specified extent. The Committee observe that normally such provisions in various statutes are prescribed in the nature of inclusive form so as to include even those situations not contemplated for in the Rules or other unforeseen situations or cases arising out of the insurance disputes and complaints or any kind of deficiency in service by the Insurers. On being pointed out, the Ministry have agreed to suitably examine the issue.</p> <p>8 The Committee note that an award granted by the Insurance Ombudsman under Rule 17 in favor of complainant shall state the amount of compensation to be granted to the complainant after deducting the amount, if any, already paid. In this regard, the Committee are of the considered opinion that the award should also provide for compensation on accounts of harassment, mental agony, loss of time and costs which are usually grounds for enhanced compensation in judicial and quasi-judicial proceedings. The Ministry have agreed to examine this observation of the Committee.</p> <p>9 The Committee observe that the scheme of insurance ombudsman as introduced by the Insurance Ombudsman Rules, 2017 is substantially different from the Banking Ombudsman Scheme, 2016 made by the RBI. In this regard, the Committee feel that uniformity in various schemes of ombudsman in different segments of financial market will help the consumers in having a better understanding of complaints redressal mechanism. In this regard the Committee note that the Ministry of Finance have agreed to examine this aspect.</p> <p>10 The Committee note that the original Insurance ombudsman Rules were notified on 27.04.2017 but were laid in Parliament only on 29 December, 2018 i.e. after a gap of more than one and a half years which was contrary to the oft repeated recommendation of the Committee on Subordinate Legislation which has prescribed that Rules should be laid in Parliament as soon as possible after their publication and if the House is not in Session then within a maximum time-limit of 15 days</p>
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	11	<p>after start of the Session. The Committee are not satisfied with the justification furnished by the Ministry of Finance that the amendment proposed in the Rules was clubbed with the proposed notification of amendment to Insurance Ombudsman Rules, 2017 and the Insurance Ombudsman (Amendment) Rules, 2018 were notified in the Gazette of India vide GSR 785 (E) on 20th August, 2018. The Committee feel that in accordance with the statutory provisions, it was the bounden duty of the Ministry to lay the Regulations in Parliament immediately after their notification in April, 2017 instead of waiting for the Notification of the proposed amendment in the Rules resulting in their delayed laying in December, 2018. In this regard, the Committee note with satisfaction that the representatives of the Ministry during evidence before the Committee have assured that in future it will be ensured that Rules are laid in Parliament well in time.</p> <p>The Committee note that as per the annual report (2017-18) of the Insurance Regulatory and Development Authority of India, 74% of the complaints made to Insurance Ombudsman were declared non-acceptable, non-maintainable. Also, taking into consideration the various aspects brought out above, the Committee feel that the Insurance Ombudsman Rules, 2017 in their present shape, are not sufficient to carry out the objectives of their parent Act i.e. Insurance Regulatory and Development Authority Act, 1999 to protect the interests of holders of insurance policies so prominently expressed in the long title of the Act. The Committee also observe that the representatives of the Ministry of Finance, Department of Financial Services have acknowledged the deficiencies/ short comings pointed out by the Committee in the Insurance Ombudsman Rules, 2017 and expressed their willingness to remove the same by undertaking a review and bringing about suitable amendments to the Rules. In this regard, the Committee note that the Department of Financial Services have proposed to constitute a Committee to review the Insurance Ombudsman Rules, 2017 as a whole to make the Insurance Ombudsman system more robust, transparent and efficient. The said Committee will take an independent view on these Rules and present its report within a period of next 3 to 4 months since its formation. Based on the recommendations of the said Committee a view will be taken in the matter. The Committee, therefore, recommend the Ministry to complete the process of review and amendment of the Insurance Ombudsman Rules, 2017 within a period of three months from the date of the presentation of this Report to the Lok Sabha.</p>
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## APPENDIX II

(Vide Para 4 of the Introduction of the Report)

### EXTRACTS FROM MINUTES OF THE FIFTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2019-2020)

The fifth sitting of the Committee (2019-20) was held on Tuesday, the 10<sup>th</sup> December, 2019 from 1500 to 1600 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

#### PRESENT

1. Shri Raghurama Krishnaraju Kanumuru Chairperson

#### MEMBERS

2. Prof. S. P. Singh Baghel
3. Shri Ajay Bhatt
4. Shri Pinaki Misra
5. Shri Chandeshwar Prasad
6. Shri Nama Nageshwar Rao
7. Shri Sanjay Seth
8. Shri Su Thirunavukkarasar

#### SECRETARIAT

1. Shri Ajay Kumar Garg - Director
2. Shri Nabin Kumar Jha - Additional Director
3. Smt. Jagriti Tewatia - Additional Director

#### WITNESSES

##### Ministry of Finance/IRDAI/RBI

1. Shri Rajiv Kumar - Secretary
2. Shri Debasish Panda - Additional Secretary
3. Shri Lalit Kumar Chandel - Economic Adviser
4. Shri Saurabh Mishra - Joint Secretary
5. Shri Suresh Mathur - Executive Director, IRDAI
6. Shri T.S. Naik - General Manager, IRDAI
7. Shri Vivek Deep - Chief General Manager, RBI
8. Shri Bipin Nair - Assistant General Manager, RBI

2. At the outset, the Chairperson welcomed the Members of the Committee to the sitting of the Committee. Thereafter, representatives of the Ministry of Finance (Department of Financial Services) were called in to brief the Committee on shortcomings/deficiencies found by the Committee in the Insurance Ombudsman Rules, 2017 and also on inability of the Ministry to implement the recommendations of the Committee contained in the 20<sup>th</sup> Report of the Committee and reiterated in their Action Taken Forty-second Report on the RBI Pension Regulations, 1990. The Chairperson welcomed the representatives of the Ministry of Finance and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings.

3. The Chairperson requested the representatives of the Ministry to apprise the Committee about the issues raised in the Insurance Ombudsman Rules, 2017.

xx xx xx.

4. The representatives of the Ministry briefed the Committee about the delay in laying of the Rules, conflict of interest in the duties of the ombudsman, procedure for appointment of Ombudsman, role of Executive Councils of Insurers in the framing of policies of the office of Ombudsman, disposal of complaints etc. The Committee were also informed that observations/suggestions of the Committee will be examined by the Ministry and it is also proposed to constitute a Committee to undertake a comprehensive review of the Insurance Ombudsman Rules, 2017 to make the Insurance Ombudsman System more robust, transparent and efficient and it would be done within a period of six months.

5. xx xx xx

6. The Members of the Committee then raised their queries and the representatives of the Ministry furnished their clarifications on the same. The Chairperson then thanked the representatives of the Ministry for presenting their inputs on the subject before the Committee.

7. The witnesses then withdrew.

8. A verbatim record of the proceedings of the sitting has been kept separately.

The Committee then adjourned.

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xx Omitted portion of the Minutes are not relevant to this Report

## MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2019-2020)

The fifteenth sitting of the Committee (2019-20) was held on Monday, the 21<sup>st</sup> September, 2020 from 1415 to 1445 hours in Chairperson's Chamber, Room No. 209, Extension Building, Parliament House Annexe, New Delhi.

### PRESENT

1. Shri Raghurama Krishnaraju Kanumuru Chairperson

### MEMBERS

2. Prof. S. P. Singh Baghel
3. Shri Ajay Bhatt
4. Shri Suresh Pujari
5. Shri A.Raja
6. Shri Nama Nageshwar Rao
7. Shri Sanjay Seth

### SECRETARIAT

1. Shri T.S.Rangarajan - Director
2. Shri Nabin Kumar Jha - Additional Director
3. Smt. Jagriti Tewatia - Additional Director

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

(i) Draft Fourth Report of the Committee on the Insurance Ombudsman Rules, 2017.

(ii) XX XX XX XX

(iii) XX XX XX XX

(iv) XX XX XX XX

3. After deliberations, the Committee adopted the same without any modification. The Committee also authorized the Chairperson to present the same to the House.

The Committee then adjourned.

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